

*Town of Frederick  
Board of Trustees*



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**AM 2009-032**

**ENCANA OIL AND GAS (USA)  
RAY NELSON/YARDLEY WETLANDS OIL AND GAS OPERATIONS**

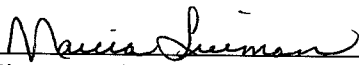
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**Agenda Date:** April 14, 2009

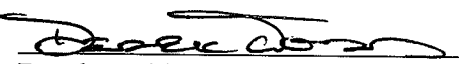
**Attachments:**

- a. Resolution
- b. Applicant's description of the proposal
- c. Location waiver form
- d. Vicinity Map
- e. 11x17 Site Plan
- f. 11x17 bottom hole location map

**Fiscal Note:** None noted

  
\_\_\_\_\_  
Finance Director

**Submitted by:**   
\_\_\_\_\_  
Todd Tucker, Staff Planner

**Approved for Presentation:**   
\_\_\_\_\_  
Derek Todd, Town Administrator

**AV Use Anticipated** Projector   X   Laptop   X  

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**Certification of Board Approval:**

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Date

**Summary Statement:** EnCana Oil and Gas (USA) has proposed to drill five natural gas wells on County land adjacent to the Town's property. The ancillary facilities (tank batteries, vapor recovery units, and burner) will be on the Town's Property. These wells and facilities are proposed to be placed outside of the Colorado Oil and Gas Conservation Commission (COGCC) drill window and adjacent to the shared property boundary between the Town and HWY 52 LLC. For EnCana to receive approval from the COGCC for the five proposed wells and facilities in this location, the Town must authorize a location variance per COGCC requirements.

**Detail of Issue/Request:****Applicant / Agent:**

Melanie Holt, EnCana Oil and Gas (USA)

**Owner:**

Jon File (HWY 52 LLC) and Town of Frederick

**Surrounding Land Uses and Zoning:**

North Bulrush Wetland Park, Town of Frederick - Agricultural

South Unincorporated Weld County, farmland - Agricultural

East Bulrush Wetland Park, Town of Frederick - Agricultural

West Unincorporated Weld County, farmland - Agricultural

**Discussion:** EnCana has proposed to install five new oil and gas wells adjacent to the Bulrush Wetland Park. While these wells are located in the County, they are also proposed to be placed outside of the COGCC drill window and about 20 feet from the Town boundary (Bulrush Wetland Park). Associated ancillary facilities will be located on Town property (Bulrush Wetland Park) adjacent to the well site, and as close as possible to the property line to minimize impacts to the adjacent wetlands. For EnCana to receive approval from the COGCC to drill in this location, the Town must authorize a location variance (see attachment c). Note that one of these new wells replaces the well that was located near the center of the park and abandoned last year. In addition, other wells could have been proposed within the Bulrush Wetland Park, however, this placement reduces impacts to the wetlands by directionally drilling to the oil and gas resource rather than drilling in the wetland (see attachment f).

Staff has worked with Jon File (the adjacent property owner) and EnCana to place the proposed wells and ancillary facilities (tank battery, separators, and burner) to minimize impacts to both properties and as close to the property line as allowed by COGCC rules. Staff finds that the proposed location generally meets that intent. Furthermore, the Corps of Engineers has assessed the proposed wells and ancillary facilities, finding that the development will not adversely impact the wetlands. However, COGCC regulations also require a setback to property lines for tank batteries (two times the diameter of the tank). To minimize encroachment and site disturbances on the upland plant species and wetland, staff suggests that EnCana also request a waiver from COGCC to the minimum required tank battery setback requirements placing it as close to the property line as possible, as noted in the conditions of approval.

Article 9 of the Land Use Code requires oil and gas facilities meet specific requirements including payment of an inspection fee. Section 4.7.8 of the Land Use Code establishes the criteria for a waiver. This application generally meets the requirements detailed in Article 9, the operator is current with payment of the inspection fees, as noted below, and there is no conflict with Section 4.7.8 of the Land Use Code. While the application generally meets the requirements for approval, minor adjustments to the location of the tank battery would further minimize impacts to the wetland by increasing the distance and buffer between the tank battery and delineated wetland.

Staff recommends conditional approval of EnCana's request for a waiver to the COGCC requirements for well location and ancillary facilities as noted in below.

**Referral:** The application was referred per the provisions of the Land Use Code. No referral indicated conflicts with the request.

**Public Notice:** The public hearing was noticed in accordance with the provisions of the Land Use Code.

**Review Criteria:** Section 9.5 of the *Land Use Code* sets the review criteria for oil and gas facilities. Section 4.7.8.c. sets the review criteria for waivers:

**Sec. 9.5. Review criteria.**

- (a) **The Board of Trustees shall approve an application for a use permitted by conditional review for a well site if the application submitted by the applicant conforms to the following requirements:**
- (1) **The site plans for a well site application comply with the requirements of Section 9.4(1) above.**
  - (2) **The vicinity maps for a well site application comply with the requirements of Section 9.4(2) above.**
  - (3) **The narrative for a well site application complies with the requirements of Section 9.4(3) above.**
  - (4) **When applicable, compliance with the provisions for geologic hazards, floodplains or floodway required in Section 9.10 of this Article.**
  - (5) **When applicable, compliance with the provisions for wildlife mitigation procedures required in Section 9.12 of this Article.**

With the exception of the well and facility locations, the application conforms to the requisite criteria. Note that, per the request of the property owner (HWY 52 LLC), the proposed well locations are not within the COGCC drill window. The proposed placement clusters the wells against town property (Park), directionally drills to the mineral resource avoiding impacts to the town's wetland, and minimizes impacts to future development of the adjacent property. In order to secure approval from the COGCC, EnCana must receive authorization from the affected property owners for the proposed well and facility locations. This request is to determine if the Board of Trustees is agreeable to the proposed well and facility locations.

Upon review, staff finds that the proposed facilities can be constructed in the location as proposed, provided certain conditions are met to further minimize adverse impacts on the Town's wetland park (see also discussion above).

**Sec. 4.7.8 Review criteria.**

- a. **Waiver criteria for approval. The condition of any waiver authorized shall be stated in writing in the minutes of the Board of Trustees with the justifications set forth. Waivers may be granted only if they meet the following criteria:**
- (1) **The waiver, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor diminish the value, use or enjoyment of adjacent property.**
  - (2) **The waiver, if granted, is the minimum variance that will afford relief and is the least modification possible of the subdivision ordinance provisions which are in question.**
  - (3) **Such practical difficulties or unnecessary hardship has not been created by the applicant.**

Upon review, staff finds that the proposed facilities generally conform to these criteria and can be constructed in the location as proposed, provided certain conditions are met to further minimize adverse impacts on the Town's wetland park (see also discussion above).

**Legal/Political Considerations:**

None noted.

**Alternatives/Options:**

The Board of Trustees may consider the following options regarding the application:

- ☐ Approval of the request finding it is substantially in conformance with the provisions of the Land Use Code and Comprehensive Plan;
- ☐ Denial of the request with a finding that it does not substantially achieve conformance with the provisions of the Land Use Code and Comprehensive Plan;
- ☐ Approval of the request finding that it would be substantially in conformance with the provisions of the Land Use Code and Comprehensive Plan if certain conditions are met;

**Financial Considerations:** Not applicable.

**Staff Recommendation:** Staff recommends that the Board of Trustees approve the request subject to the following conditions:

- a. EnCana shall consult with and allow the Town's Wetland Consultant access to the site during mobilization, drill operations, future work over operations, and for all reclamation efforts to monitor wetland protection efforts. The cost of this consultation and monitoring shall be billed to and reimbursed by EnCana (Monitoring is projected to include two hours a day during drill and work over operations. Additional time may be required if sensitive areas are adversely impacted by drill, maintenance, and emergency operations).
- b. The Town encourages and supports a waiver to COGCC setback rules to allow for these facilities to be as close as possible to the property line to minimize impacts to the wetland, provided all effected parties agree to this placement and a waiver is granted by the COGCC.
- c. Prior to mobilization, the applicant will contact all neighboring property owners within 1,000 feet of the drill site to provide a company contact name and phone number and advise them of the drilling operation and completion process.
- d. Heavy equipment requires an overweight vehicle permit. Access points require an access permit. Special access and / or overweight vehicle permits may be granted by the Town Engineer on a case-by-case basis.
  - i. Paved roads adjacent to drill the site shall be maintained free of mud and debris at all times. The use of onsite vehicle tracking control is required.
  - ii. All service, drilling, and regular maintenance vehicles for the well site shall utilize only Town approved and permitted access in accordance with the Surface use agreement and or as shown on the approved final subdivision plat. Separate access permits may be required for egress to state roads.
  - iii. The applicant shall apply for and receive all applicable building permits from the Town's Chief Building Official for each well prior to mobilization.
- e. All proposed fencing shall be reviewed and approved by the Town Planning Department prior to installation. Installation of fencing shall be coordinated with development of the adjacent lands and shall conform to Town requirements. Building Permits may be required for fencing in accordance with Town Codes. Barbed wire and chain link fencing are not permitted.
- f. EnCana shall provide an as built drawing to scale (1"=50') of the wells and all ancillary facilities detailing their location in relation to the property line and delineated wetland boundary,

including the limits of disturbance, reclamation areas, and other related improvements and activities within 45 days of completion of the wells. As-builts shall be stamped by a surveyor licensed by the State of Colorado.

- g.** Future oil and gas wells and related non-emergency construction activity and maintenance on this site shall be timed to minimize conflicts with neighboring developments / uses and employ methods to minimize nuisances to the neighboring property owners.
- h.** All commitments of record, as noted in the file and established in various correspondence are adopted as conditions of approval, including but not limited to points of access as noted in the Surface Use Agreement, hours of operation / timing of construction, site reclamation, sound mitigation, site maintenance, weed control, storm drainage and erosion control, sanitation, emergency response plans, fencing, and compliance with other applicable requirements of the Town's adopted Municipal and Land Use Codes, as amended.
- i.** This conditional approval shall expire one year from the date of approval of the resolution and the notice to proceed, the COGCC expiration date, or whichever comes first. Any wells that have not been installed prior to the expiration date shall require re-authorization by the Town in accordance with the provisions of the Land Use Code. Any re-issued or reauthorized COGCC drill permits shall be provided to the Town upon receipt.